

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

KIM *et al.*

Appl. No.: 10/646,145

Filed: August 22, 2003

For: **Composition Comprising the
Extract of Actinidia arguta and
Related Species for the Prevention
and Treatment of Allergic Disease
and Non-allergic Inflammatory
Disease**

Confirmation No.: 8727

Art Unit: 1627

Examiner: SOROUSH, Layla

Atty. Docket: 2298.0140001/TJS/M-N

Fifth Supplemental Information Disclosure Statement

Mail Stop Amendment

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

Listed on accompanying IDS Forms are documents that may be considered material to the patentability of this application as defined in 37 C.F.R. §1.56, and in compliance with the duty of disclosure requirements of 37 C.F.R. §§ 1.97 and 1.98. The numbering on this Fifth Supplemental Information Disclosure Statement is a continuation of the numbering in Applicants' Fourth Supplemental Information Disclosure Statement filed on October 15, 2009, in connection with the above-captioned application.

Copies of documents **FP7-FP14** and **NPL9-NPL17** are submitted.

In accordance with 37 C.F.R. § 1.98(a)(3), Applicants' undersigned representative submits the following discussion of the relevance of the non-English language documents **FP7-FP14**, cited on the IDS Form PTO/SB/08A:

Document **FP7**, JP 62-146581 A, is in the Japanese language. An English language abstract of document FP7 is cited as document **NPL11**.

Document **FP8**, JP 2-202808 A, is in the Japanese language. An English language abstract of document FP8 is cited as document **NPL9**.

Document **FP9**, JP 7-61915 A, is in the Japanese language. An English language abstract of document FP9 is cited as document **NPL10**.

Document **FP10**, RU 2 112 524 C1, is in the Russian language. An English language abstract of document FP10 is cited as document **NPL16**.

Document **FP11**, JP 2001-220344 A, is in the Japanese language. An English language abstract of document FP12 is cited as document **NPL12**.

Document **FP12**, JP 2002-145754 A, is in the Japanese language. An English language abstract of document FP13 is cited as document **NPL13**.

Document **FP13**, JP 2002-275079 A, is in the Japanese language. An English language abstract of document FP14 is cited as document **NPL14**.

Document **FP14**, JP 2003-61615 A, is in the Japanese language. An English language abstract of document FP15 is cited as document **NPL15**.

In accordance with the Federal Circuit decision in *Dayco Prods., Inc. v. Total Containment, Inc.* 329 F.3d 1358 (Fed. Cir. 2003), Applicants submit herewith an Office Action from the co-pending U.S. Patent Application No. **11/522,511**, filed **September 18, 2006**, as document **NPL17**.

The identification of this Office Action is not to be construed as a waiver of secrecy as to that application now or upon issuance of the present application as a patent. The Examiner is respectfully requested to consider the cited application and the art cited therein during examination.

Where the publication date of a listed document does not provide a month of publication, the year of publication of the listed document is sufficiently earlier than the effective U.S. filing date and any foreign priority date so that the month of publication is not in issue. Applicants have listed publication dates on the attached IDS Forms based on information presently available to the undersigned. However, the listed publication dates should not be construed as an admission that the information was actually published on the date indicated.

Applicants reserve the right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered.

This statement should not be construed as a representation that a search has been made, or that information more material to the examination of the present patent application does not exist. The Examiner is specifically requested not to rely solely on the material submitted herewith.

This Information Disclosure Statement is being filed more than three months after the U.S. filing date and after the mailing date of a Final Rejection or Notice of Allowance, but on or before payment of the Issue Fee. The required fee is provided

through online credit card payment authorization in the amount of \$180.00 in payment of the fee under 37 C.F.R. § 1.17(p).

In addition, I hereby state that documents **FP11**, **FP13**, and **FP14**, in this Information Disclosure Statement were first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1).

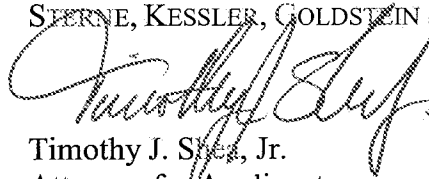
FP7-FP10 and **FP12** are abstracts of documents that were submitted in the Applicants' Third Supplemental Information Disclosure Statement of April 6, 2009, but were not considered by the Examiner because verified English-language abstract equivalents had not been provided. Since the complete documents had previously been provided to the United States Patent and Trademark Office, just the abstracts of the same are included in the present Information Disclosure Statement. Each of these documents contained in the Information Disclosure Statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the Third Supplemental Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1).

It is respectfully requested that the Examiner initial and return a copy of the enclosed IDS Forms, and indicate in the official file wrapper of this patent application that the documents have been considered.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Timothy J. Shea, Jr.
Attorney for Applicants
Registration No. 41,306

Date:

1100 New York Avenue, N.W.
Washington, D.C. 20005-3934
(202) 371-2600

1106384_1.DOC